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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAY 15 2019

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MOJAVE WATER AGENCY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

CITY OF BARSTOW, et al.,

Plaintiff,

vs.

CITY OF ADELANTO, et al.,

Defendant,

CASE NO. CIV 208568

**WATERMASTER'S RESPONSE TO
JAMES AND ELLEN JOHNSON'S
MOTION TO DIRECT
WATERMASTER TO EVALUATE
AND CONSIDER MODIFICATIONS
TO THE JUDGMENT MOTION TO
COMPEL THE COURT TO LOOK
AT SPECIFIC ISSUES**

Assigned for All Purposes to:
Judge Craig Riemer
Dept. 1

DATE: June 6, 2019

TIME: 1:30 p.m.

DEPT: 1

AND RELATED CROSS ACTIONS

The Mojave Basin Area Watermaster respectfully submits its response to James and Ellen Johnson's Motion to Direct Watermaster to Evaluate and Consider Modifications to the Judgment Motion to Compel the Court to Look at Specific Issues (Johnson Motion).

1 The Johnson Motion repeats grievances, disagreements, allegations and recommendations that
2 have been discussed at length in negotiations leading to Trial, during the Trial, subsequently in public
3 forums, Watermaster meetings, town hall meetings in the Baja Subarea, and multiple meetings with
4 Watermaster staff and Baja residents. The Johnson Motion seeks to provide multiple solutions to a
5 problem wholly created by over pumping in the Baja Subarea since at least 1950 and as early as the
6 1930's. The Johnson Motion alleges that San Bernardino County, the Mojave Water Agency and others
7 are responsible for overdraft in Baja due to some sort of inaction by these entities. The Johnson Motion
8 proposes solutions that are either contrary to the Judgment, or require funding from unspecified sources.
9 The Johnson Motion does not specifically identify how the overdraft can be resolved without imported
10 water or a reduction in pumping.

11 The Johnson Motion suggests the Baja overdraft was caused by over pumping in Centro and
12 Alto, the flood control dam, and flood control channel activities allegedly preventing storm flow from
13 reaching Baja. The motion indicates that Alto and Centro should provide supplemental water to address
14 the continued overdraft in the Baja Subarea. This approach is contrary to the adjudication and may
15 encourage parties to seek relief from the Judgment.

16 I.

17 **OVERDRAFT IN BAJA BEGAN AT LEAST 70 YEARS AGO**

18 Total pumping in Baja since 1930 is plotted on Exhibit A along with an estimate of net average
19 annual native water supply (adjusted for loss of riparian habitat) for the period 1931-1950. Estimated
20 average annual pumping in Baja since 1930 has been 32,449 acre-feet. The pre-overdraft net average
21 annual native water supply is 6,229 acre-feet, for an annual deficit of 26,220 acre-feet. Total Baja
22 pumping for 1930 through 2018 has exceeded the pre-development supply by 2.3 million acre-feet.

23 II.

24 **ALTO AND CENTRO ARE COMPLYING WITH THE JUDGMENT**

25 Alto has reduced pumping since 1990 by 21%; the Transition Zone is functioning as envisioned
26 by the Judgment; subarea obligations from Alto to Centro have been met. Pumping in Centro has
27 declined since 1990 by 59%. The water level trends in Centro display the same characteristics as in the

1 past; subarea obligations have been met. The dams in the upper watershed in Alto were constructed in
2 1971, 25 years before the Trial; various studies have documented the limited impact if any of these
3 structures. Importantly all of the physical issues raised by the Johnson Motion were studied under court
4 order. In 2005 Judge Kaiser ordered Watermaster to investigate many of the complaints raised in the
5 Johnson Motion including interference with stormflow by the dams. In 2008, Judge Trask signed an
6 order acknowledging that the Watermaster responses adequately addressed these issues. The order of
7 Judge Kaiser is attached as Exhibit B and Judge Trask's order is attached as Exhibit C.

8 III.

9 **SUBAREA RIGHTS AND OBLIGATIONS**

10 Pursuant to Paragraph 13 of the Judgment After Trial dated January 10, 1996 (Judgment), each
11 Producer in the five subareas has, in the aggregate, rights and obligations to the adjoining subarea. These
12 rights and obligations include receiving an average annual water supply from the immediate upstream
13 Subarea and providing an annual average water supply to the immediate downstream Subarea. With the
14 exception of the Alto Subarea, these Subarea obligations are all defined as sub-surface obligations (see
15 Exhibit G of the Judgment). The Alto Subarea also has a surface obligation to the Centro Subarea. These
16 Obligations are accounted for on Table 4-2 of the Watermaster's annual reports.

17 As required by the Judgment, Albert A. Webb Associates (Webb) evaluated the sub-surface flows
18 between the Subareas. They reported their findings to the Watermaster in February 2000. In February
19 2006 the Watermaster Engineer, Robert C. Wagner, prepared a report on the sub-surface flows between
20 subareas. Wagner & Bonsignore (Wagner) re-evaluated the sub-surface flows as part of the report titled
21 *Consumptive Water Use Study and Production Safe Yield Update, 2017-18 Water Year*. The Wagner
22 report was provided to the Court with the Watermaster's *Notice of Motion and Motion to Adjust Free*
23 *Production Allowance for Water Year 2019-2020*, filed on May 1, 2019.

24 Paragraph 22 of the Judgment states that, "The extent of Overdraft now varies between
25 Subareas..." and continues stating, "Any adverse impact to any Subarea caused by the implementation
26 of the provisions shall be the responsibility of the Producers in each such Subarea." The studies
27 mentioned above by Webb and Wagner, found that the sub-surface obligations in the Judgment are being

1 met. Therefore, any remaining Subarea obligations are to be met by the Subarea that is in deficit, not by
2 any upstream Subarea.

3 **IV.**

4 **LAND USE**

5 The Johnson Motion suggests that land use restrictions be implemented by San Bernardino
6 County and the Mojave Water Agency (MWA). Neither MWA nor the Watermaster has the authority
7 to impose land use ordinances. The County of San Bernardino controls land use and zoning within the
8 Mojave Basin Area. Further, the restrictions proposed by the Johnson Motion, limiting new recreational
9 lakes and new agricultural fields have been discussed with the County of San Bernardino. The County
10 has taken no action as to these proposed land use restrictions. The County has been served with all
11 pleadings in this matter.

12 MWA has offered conservation measures within the Mojave Basin Area including but not limited
13 to, water meters, Cash for Grass removal (domestic and commercial), rebates for low water use plumbing
14 fixtures and will continue to do so.

15 **V.**

16 **STORM FLOWS – DAMS ON THE MOJAVE RIVER**

17 There are two independent dams in the upper Mojave River Watershed. The Mojave Forks Dam,
18 an ungated flood control facility operated by the US Army Corps of Engineers, and Cedar Springs Dam,
19 operated by the California Department of Water Resources as part of the State Water Project. These
20 facilities are separate, have independent functions, and are specifically operated to avoid impeding
21 natural inflow to the Mojave Basin Area.

22 The earliest investigation into damming along the Mojave River was in 1875. The Mojave Forks
23 Dam was authorized by act of Congress, specifically the Flood Control Act of 1960, approved July 14,
24 1960. The Army Corps of Engineers and Bureau of Reclamation planned the dam from 1960 to 1965.
25 Construction began in 1967 and the dam was completed in May 1971 with the permanent operating
26 equipment completion in November 1974. It was designed to contain a flood of 94,000 cubic feet per
27 second (cfs) with a maximum outflow of 23,500 cfs and is usually drained within 2-3 days of a flooding

1 event. Only flows greater than 7,300 cfs are attenuated. It is noted that the dam was completed nearly
2 25 years before entry of Judgment in January 1996. The Mojave Basin Area Watermaster, MWA, parties
3 in the upper basins do not own the flood control facility, do not operate it, and have no influence over
4 its function. The facility is independent of the Judgment and is a base line condition within the Mojave
5 Basin Area.

6 Paragraph 18 of the Judgment (Injunction Against Diverting Storm Flows) states, “No Party may
7 undertake or cause the construction of any project that will directly reduce the amount of Storm Flow
8 that would otherwise go through the naturally occurring hydrologic regime to a downstream Subarea or
9 that will reduce the surface area over which Storm Flow currently occurs by alteration to the bed of the
10 Mojave River. This paragraph shall not prevent any flood control agency or municipality from taking
11 such emergency action as may be necessary to protect the physical safety of its residents and its structures
12 from flooding. Any such action shall be done in a manner that will minimize any reduction in the quantity
13 of Storm Flows.”

14 The Cedar Springs Dam is part of the State Water Project (SWP) and is operated by the California
15 Department of Water Resources (DWR). The Cedar Springs Dam created the SWP Reservoir known as
16 Silverwood Lake. It too was completed in 1971 and DWR began filling the area behind the dam in
17 January 1972 with water pumped over the Tehachapi’s at the Edmonston Pumping Plant. This dam is
18 not a flood control facility and is not operated as such. DWR measures the natural inflow into
19 Silverwood Lake and this volume of water is released into the West Fork of the Mojave River with the
20 intention of mimicking the natural inflows into the river. Cedar Springs Dam is not part of any
21 conservation storage for natural inflow from the watershed.

22 Since completion of the Mojave Forks Dam, there have been eight (8) Water Years where the
23 flows as recorded by the USGS stream gages at Deep Creek (10260500) and the West Fork (10260950)
24 have been greater than 7,300 cfs, 1977-78, 1979-80, 1982-83, 1992-93, 1994-95, 1997-98, 2004-05, and
25 2010-11. Consistent with pre-construction modeling by the USGS (Durbin and Hardt, 1971) the flood
26 control operations attenuate flood flows only by hours and at most 1-3 days. Durbin and Hardt reported
27 the peaks of the storms are reduced but not the volume of water moving downstream to Barstow. In

1 1980, USGS studied the effects of the flood control activities on the floods of 1978 and concluded the
2 flood control structure may have increased the recharge to downstream areas by reducing outflow from
3 the basin (*Aquifer Recharge for the 1969 and 1978 Floods in the Mojave River Basin, California, USGS,*
4 *1980, Buono and Lang*).

5 VI.

6 **EXPORTATION FROM THE MOJAVE BASIN AREA**

7 Paragraph 17 of the Judgment, prohibits water that is produced within the Mojave Basin Area
8 from being transported to areas outside the Basin Area. Although there have been certain highway
9 construction projects that have been both inside and outside of the Mojave Basin Area, Watermaster has
10 worked with the different construction companies to ensure that the Mojave Basin Area is kept whole
11 for the construction water that has been produced from within the Mojave Basin Area, by requiring
12 mitigation in excess of the amount being exported or used. The total amount of water used for
13 construction or resulting in export is very small.

14 VII.

15 **TRANSFERS OF BASE ANNUAL PRODUCTION RIGHTS (BAP)**

16 Transfers of BAP are subject to the rules set forth in Exhibit F of the Judgment. Watermaster
17 has processed over 5,000 transfers of permanent (BAP) and temporary (FPA) water rights since 1995.
18 As required by Exhibit F of the Judgment, the Watermaster Engineer has reviewed these transfers for
19 necessary consumptive uses adjustments as required by the Judgment, which were made at the time of
20 the transfer. All of these have been intra Subarea transfers, meaning that both Parties to the transfers
21 were in the same Subarea. There have been no proposals for any inter Subarea transfers as described in
22 Paragraph 4 of Exhibit F.

23 VIII.

24 **MINIMAL PRODUCERS**

25 Minimal Producers are defined in the Judgment as, “Any Person whose Base Annual Production,
26 as verified by MWA is not greater than ten (10) acre-feet.” Minimal Producers are not subject to the
27 terms of the Judgment but are monitored by the MWA. Watermaster staff reviews aerial imagery

1 annually as part of its verification process. Those properties that appear to be using more than 10 acre-
2 feet are reviewed further.

3 **IX.**

4 **CONCLUSION**

5 It is difficult to address the stream of consciousness of thoughts, feelings and reactions contained
6 in the motion filed by the Johnsons with any degree of clarity. All issues and contentions raised have
7 been addressed by the Engineers, USGS, Watermaster staff and other parties to the litigation. The rights
8 and obligations including receiving an average annual water supply from the immediate upstream
9 Subarea and providing an annual average water supply to the immediate downstream Subarea continue
10 to be met. Storm flows have not been hindered by the Judgment. Only continued Rampdown of Free
11 Production Allowance, retirement of production rights and the purchase of supplemental water by the
12 Baja Subarea can bring the subarea to a sustainable condition.

13
14 Dated: May 15, 2019

BRUNICK, McELHANEY & KENNEDY PLC

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16 BY: 

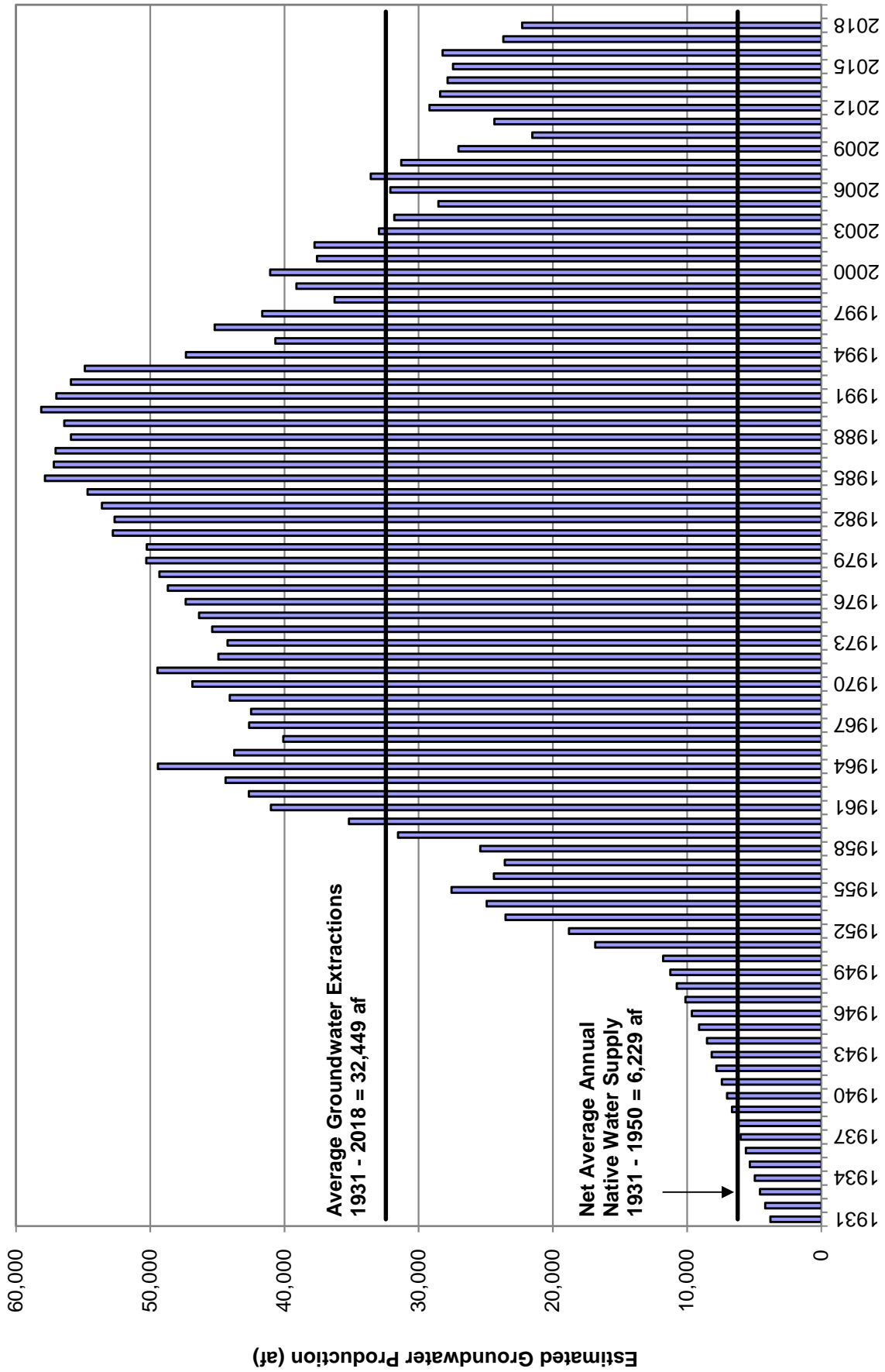
WILLIAM J. BRUNICK, ESQ.

LELAND P. McELHANEY, ESQ.

Attorneys for Defendant/Cross-Complainant,
MOJAVE WATER AGENCY

EXHIBIT A

Groundwater Pumping in Baja has Exceeded the Supply Since the 1930's



Source: USGS: Hardt: 1971 CDWR: Bulletin 84 1967 MBA Watermaster: 1990-2018 Stamos 2001

EXHIBIT B

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6 **MOJAVE WATER AGENCY**

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF RIVERSIDE**

10
11 CITY OF BARSTOW, et al.

12 Plaintiff,

13 vs.

14 CITY OF ADELANTO, et al.,

15 Defendant.

16 AND RELATED CROSS ACTIONS

CASE NO. 208568

17 } **[Proposed]**
ORDER GRANTING MOTION TO
ADJUST FREE PRODUCTION
ALLOWANCE IN THE BAJA
SUBAREA FOR WATER YEAR
2005-2006

Assigned for All Purposes to:
Judge E. Michael Kaiser, Dept. 3

18 On May 27, 2005, the Court heard the motion of Defendant/Cross-Complainant
19 Mojave Water Agency (MWA), acting in its capacity as Watermaster, to adjust the Free
20 Production Allowance (FPA) in the various Subareas. On June 15, 2005 the court issued its
21 ruling, but deferred any ruling on the recommendation for the Baja Subarea. The Court
22 directed MWA and the Baja Subarea Advisory Committee (BSAC) to meet and submit a
23 recommendation to the Court.

24 The above entitled action came on for hearing on September 9, 2005 before the
25 Honorable E. Michael Kaiser, Judge of the Superior Court, on the motion of
26 Defendant/Cross-Complainant, MWA, acting in its capacity as Watermaster, pursuant to the
27 Judgment entered January 10, 1996, Paragraph 24 (o), seeking an adjustment in FPA. The
28

[PROPOSED] ORDER GRANTING MOTION TO
ADJUST FREE PRODUCTION ALLOWANCE IN THE BAJA SUBAREA (2005-06)

1 court having reviewed and considered the moving, opposing, and reply papers, and the
2 arguments of counsel, and good cause appearing, hereby grants the motion on the following
3 terms as to the Baja Subarea defined in the Judgment of January 10, 1996 for Water Year
4 2005-2006.

5 **BAJA SUBAREA**

- 6 1. The Baja residents will work with the County of San Bernardino to encourage
7 enforcement of the provisions of Development Code Section 810.0605 -- 810.0615
8 restricting water use on fallowed lands for irrigation and development of recreational
9 lakes. The Watermaster supports the Baja residents in this endeavor.
- 10 2. Base Annual Production Rights (BAP) are to remain with the land(s) where water is
11 presently being used. This condition applies to all producers. Changes in purpose or
12 place of use will result in continued Rampdown pursuant to the terms of Judgment (to
13 the indicated Rampdown amount at the time of change). An individual farmer,
14 farming operation, or farming entity, may use its FPA (Carryover is subject to the
15 limitations outlined below) on any of its various fields currently in production, or any
16 fields that were subject to farming during the adjudicated Base Period (1986-1990).
17 All producers will have FPA set at 75% beginning October 1, 2005 for a period of
18 Ten (10) years except as otherwise stated herein.
- 19 3. Transfers will not be allowed for any purpose except as outlined below:
- 20 a) Substitution of one owner for another (a sale or some other transaction) with no
21 change in purpose or place of use and the subsequent production by the new
22 owner to be treated as if the original owner were still the producer.
- 23 b) Partial transfer of FPA or BAP will be allowed but the transferred portion to be
24 immediately ramped down to the then indicated Rampdown amount. The
25 remaining portion will remain at 75% as long as the purpose or place of use
26 does not change.
- 27 4. Carryover transfers of any kind are not allowed. Carryover may be used on the land(s)
28 where it originates, only by the current producer. Carryover can be accrued for two

1 years. All existing and current Producers of recirculated water (referred to as the
2 “Recreational Lakes”), in the Baja Subarea as defined in the Judgment and identified
3 in Table B-2 of Exhibit “B” of the Judgment shall continue to have the right under
4 Paragraph 34 of the Judgment and Exhibit “F” of the Judgment to purchase any
5 Carryover Right or any portion thereof pursuant to the rules and procedures set forth
6 in Exhibit “F”. All Producers may continue to sell, assign, transfer, license, or lease
7 any Carryover Right or portion thereof to Recreational Lakes as provided in the
8 Judgment.

9 5. The Ten (10) Year Moratorium will be revisited by the Watermaster and the Court if it
10 is found that, 1) new agricultural production has been identified to be in non-
11 compliance with the San Bernardino County Development code relating to limiting
12 new production in the Baja area, or 2) if the annual production as recorded by the
13 Watermaster materially exceeds that of the 2003-04 Water Year. If such events are
14 demonstrated to have occurred, the Watermaster shall recalculate basin Free
15 Production Allowance and the necessary Rampdown needed to bring the Baja Subarea
16 into balance as required by the Judgment and will present these findings and
17 recommendations to the Court for Rampdown in the next Water Year.

18 6. MWA will examine and consider the following in the Baja Subarea:

- 19 a) The effect of continued upstream population growth on water supply of all
20 downstream users and Subareas.
- 21 b) The effect of continued improvements in flood control measures designed to
22 eliminate major fast-moving floods and to replace them with “trickle effect”
23 water to the Baja Subarea.
- 24 c) The effectiveness of the pipeline in improving groundwater levels through
25 replacement water.
- 26 d) If the “physical solution” was equitable to Baja and to determine the need for
27 make-up water to be supplied to Baja by upstream Subareas.
- 28 e) The accuracy of current measuring estimates of underground flow into the

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Baja.

- f) An acceptably accurate estimate of the total groundwater storage in the Baja Subarea within 1,000 feet of surface and within 2,000 feet of surface.
- 7. Watermaster shall publish a list of those producers who have FPA based upon the Alternative Rampdown Proposal adopted in this order and a list of producers whose FPA is determined by the terms of the Judgment entered January 10, 1996. Watermaster shall publish the list not less than once each year.
- 8. In 2015 a recommendation and report will be made to the Court as to the need for Rampdown and other appropriate actions necessary to ensure water availability in the Baja Subarea.
- 9. Baja Subarea minimal producers will be governed by MWA Ordinance No. 11.

Date: 12-29, 2005

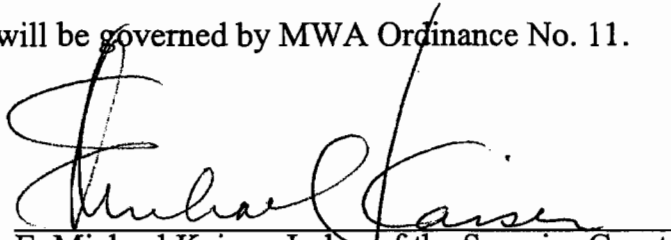

E. Michael Kaiser, Judge of the Superior Court

EXHIBIT C

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NO FEE PER GOV'T. CODE SEC. 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF RIVERSIDE**

13 CITY OF BARSTOW, et al.
14 Plaintiff,

15 vs.

16 CITY OF ADELANTO, et al.,
17 Defendant.

CASE NO. 208568

**[PROPOSED]
ORDER GRANTING MOTION TO
ADJUST FREE PRODUCTION
ALLOWANCE FOR WATER YEAR
2008-2009**

Assigned for All Purposes to:
Judge Gloria Connor Trask, Dept. 1

18 **AND RELATED CROSS ACTIONS**

19 The above-entitled action came on regularly for hearing on July 18, 2008, before the
20 Honorable Gloria Connor Trask, Judge presiding, on the motion of Defendant/Cross-
21 Complainant, MOJAVE WATER AGENCY, acting in its capacity as Watermaster, to Adjust
22 Free Production Allowance for Water Year 2008-2009 pursuant to Paragraph 24(o) of the
23 Judgment entered January 10, 1996. The court having reviewed and considered all of the
24 pleadings filed by the parties, including the moving, opposing, and reply papers, and the
25 arguments of counsel and parties, and good cause appearing, hereby GRANTS the motion on
26 the following terms as to the Subareas defined in the Judgment of January 10, 1996 for the
27 Water Year 2008-2009:

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///

1 **ALTO SUBAREA**

2 1. Free Production Allowance (FPA) shall remain at 60% of Base Annual Production
3 (BAP) for Municipal and Industrial (M&I) producers.

4 2. FPA shall remain at 80% of BAP for Agricultural producers, i.e., those who
5 produce water for the irrigation of the crops, or as otherwise determined by Watermaster.

6 **BAJA SUBAREA**

7 The ten (10) year moratorium on rampdown imposed in the December 29, 2005 order is lifted
8 due to water production materially exceeding the production for the 2003-04 Water Year. Therefore,
9 FPA shall be set at 70% of BAP. Rampdown shall continue pursuant to the terms of the Judgment.
10 There shall be no limitations on transfers and only one year of Carryover will be allowed and any
11 accrued second year of Carryover allowed by the December 29, 2005 order shall expire effective the date
12 of this order. Baja shall return to the Judgment and its provisions as the operative management strategy.

13 **CENTRO SUBAREA**

14 FPA shall remain at 80% of BAP for both M&I and Agricultural producers.

15 **ESTE SUBAREA**

16 Rampdown is deferred and FPA shall continue to remain at 80% of BAP for both M&I
17 and Agricultural producers. However, deferred rampdown could be implemented upon further
18 order of the court following the Watermaster's request and motion seeking court approval which
19 could result in FPA being reduced to the level required by the Judgment at the time the Motion
20 is made.

21 **OESTE SUBAREA**

22 FPA shall remain at 80% of BAP for both M&I and Agricultural producers.

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The December 29, 2005 Court Order also directed Watermaster to answer certain questions as set forth in Paragraph 6 (a)-(f) in the Order. The Court finds that the questions in Paragraph 6 (a)-(f) of the Order have been adequately answered by the Watermaster and no further response is necessary.

IT IS SO ORDERED.

Date: Sept 8, 2008


Gloria Connor Trask,
Judge of the Superior Court

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF RIVERSIDE**

13 CITY OF BARSTOW, et al.
14 Plaintiff,

15 vs.

16 CITY OF ADELANTO, et al.,
17 Defendant.

CASE NO. 208568

(PROPOSED)
STATEMENT OF DECISION

Assigned for All Purposes to:
Hon. Gloria Connor Trask
Dept. 1

DATE: July 18, 2008
TIME: 8:30 a.m.
DEPT: 1

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19 The above-entitled cause came on regularly for hearing on July 18, 2008 in Department 1 of the
20 above-entitled court, the Honorable Gloria Connor Trask, Judge Presiding. William J. Brunick
21 appeared as attorney for Mojave Water Agency, acting in its capacity as Watermaster; Marilyn H.
22 Levin, Deputy Attorney General, Office of the Attorney General of the State of California, appeared
23 on behalf of the California Department of Fish & Game; Robert C. Hawkins appeared as attorney for
24 the Baja Lake Owners and Perry Dahlstrom, Robert Kasner, Ellen Johnson and Steve Swift appeared
25 as indicated on the record.

26 Oral and documentary evidence was introduced on behalf of the respective parties and the cause
27 was argued and submitted for decision. The court, having considered the evidence and arguments of
28 counsel and parties and being fully advised, issues the following Statement of Decision:

- 1 1. The objections by the Baja Lake Owners to the May 19, 2008 Declaration of Thomas W.
2 Bilhorn are overruled;
- 3 2. The Baja Lake Owners' Motion to Strike the Response of the California Department of Fish &
4 Game filed on May 20, 2008 as untimely is denied;
- 5 3. The Baja Lake Owners' Motion to Strike the Reply of the California Department of Fish &
6 Game filed on July 2, 2008 is denied;
- 7 4. With respect to the Alto Subarea, the court finds that Free Production Allowance does not
8 exceed estimated Production Safe Yield by more than 5 percent and, therefore, further
9 rampdown is not warranted at this time. For the 2008-09 Water Year, Free Production
10 Allowance shall remain at 80 percent of Base Annual Production for Agricultural producers and
11 60 percent of Base Annual Production for Municipal and Industrial producers.
- 12 5. With respect to the Centro Subarea, the court finds that while Free Production Allowance
13 exceeds estimated Production Safe Yield by greater than 5 percent, further rampdown is not
14 warranted at this time given the fact that there is an apparent surplus when considering the long
15 term average water supply and current levels of pumping. Therefore, for the 2008-09 Water
16 Year, Free Production Allowance shall remain at 80 percent of Base Annual Production.
- 17 6. With respect to the Este Subarea, the court finds that while Free Production Allowance exceeds
18 estimated Production Safe Yield by more than 5 percent, water levels have been relatively stable
19 and water production is less than Free Production Allowance. Therefore, for the 2008-09 Water
20 Year, Free Production Allowance shall remain at 80 percent of Base Annual Production and the
21 court ordered stay of further rampdown shall remain in effect.
- 22 7. With respect to the Oeste Subarea, the court finds that while the Free Production Allowance
23 exceeds estimated Production Safe Yield by more than 5 percent, available water level data
24 indicates only a slight downward trend in water levels, and further rampdown is not necessary
25 at this time. Therefore, for the 2008-09 Water Year, Free Production Allowance shall remain
26 at 80 percent of Base Annual Production.
- 27 8. With respect to the Baja Subarea, the court finds that Free Production Allowance exceeds
28 estimated Production Safe Yield by more than 5 percent. Pursuant to the court's order of

1 December 29, 2005 for the 2005-06 Water Year, the court set Free Production Allowance at 75
2 percent of Base Annual Production beginning October 1, 2005 for a period of 10 years subject
3 to certain limitations and restrictions as set forth in the order. The order provided that the 10-
4 year moratorium on further rampdown would be revisited by the court if the annual production
5 as recorded by the Watermaster materially exceeded the production for the 2003-04 Water Year.
6 If such an event is demonstrated to have occurred, the order provides that the Watermaster shall
7 recalculate the Free Production Allowance and the necessary rampdown needed to bring the
8 Baja Subarea into balance as required by the Judgment and to present those findings and
9 recommendations to the court for rampdown in the next Water Year. The court finds that water
10 production for the 2003-04 Water Year was 29,594 acre feet and that production for the 2006-
11 07 Water Year was 33,572 acre feet representing a 13.48 percent increase. The court finds that
12 the production materially exceeds that of the 2003-04 Water Year and, therefore, triggers the
13 reevaluation of the moratorium and the recalculation of Free Production Allowance and the
14 necessary rampdown needed to bring the Baja Subarea into balance as required by the
15 Judgment. Therefore, for the 2008-09 Water Year, Free Production Allowance shall be set at
16 70 percent of Base Annual Production. Rampdown shall continue pursuant to the terms of the
17 Judgment. There shall be no limitations on transfers and only one year of Carryover will be
18 allowed with any accrued second year Carryover that had been allowed under the December 29,
19 2005 order shall expire effective the date of the order herein. The Baja Subarea shall return to
20 the Judgment and its provisions as the operative management strategy.

21 9. With respect to the Watermaster's response to Paragraph 6(a)-(f) in the December 29, 2005
22 Order, the court finds that the Watermaster has adequately responded to the issues set forth in
23 said paragraph 6 and that no further response is necessary.

24 10. The legal basis for the court's decision with respect to each subarea is Paragraph 24 (o) and
25 Exhibit H of the Judgment in this case.

26
27 Dated: Sept 8, 2008


GLORIA CONNOR TRASK,
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

**STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO}**

I am employed in the County of the San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 13846 Conference Center Drive, Apple Valley, California 92307.

On May 15, 2019, the document(s) described below were served pursuant to the Mojave Basin Area Watermaster's Rules and Regulations paragraph 8.B.2 which provides for service by electronic mail upon election by the Party or paragraph 10.D, which provides that Watermaster shall mail a postcard describing each document being served, to each Party or its designee according to the official service list, a copy of which is attached hereto, and which shall be maintained by the Mojave Basin Area Watermaster pursuant to Paragraph 37 of the Judgment. Served documents will be posted to and maintained on the Mojave Water Agency's internet website for printing and/or download by Parties wishing to do so.

Document(s) filed with the court and served herein are described as follows:

WATERMASTER'S RESPONSE TO JAMES AND ELLEN JOHNSON'S MOTION TO DIRECT WATERMASTER TO EVALUATE AND CONSIDER MODIFICATIONS TO THE JUDGMENT MOTION TO COMPEL THE COURT TO LOOK AT SPECIFIC ISSUES

 X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 15, 2019 at Apple Valley, California.



Valerie Wiegstein

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Mojave Basin Area Watermaster Service List as of May 15, 2019

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Mojave Basin Area Watermaster Service List as of May 15, 2019

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